IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

Crl.MC.No. 3458 of 2007()

SC.91/2007 of ASSISTANT SESSIONS COURT, MAVELIKKARA

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PETITIONER: ACCUSED:

R.RAJESH @ SHAJI, KULATHILPARAMBIL,
CHENNITHALA SOUTH, ALAPPUZHA.

BY ADV. SRI.R.KRISHNA RAJ

RESPONDENTS: COMPLAINANT:

THE STATE OF KERALA REP. BY THE
PUBLICL PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.RAVEENDRA BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3458 of 2007

Dated this the 16th day of November 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 436 I.P.C. Crime No.168/97 of Munnar police station has been registered against him. Investigation was complete. Final report was filed also. The case was committed. According to the petitioner, the case against him was numbered as S.C.No.831/04. He had approached this court for bail with B.A.No.556/07, it is submitted. That order is not produced. As per the directions in the said order, the petitioner, it is submitted, had appeared before the learned Assistant Sessions Judge, Mavelikkara and he was enlarged on bail in S.C.No.831/04.

2. According to the petitioner, he has been faithfully appearing before the court in S.C.No.831/04. There is yet another case also against him which is pending as S.C.No.834/04. He has been appearing in that case also, it is submitted. On 14/9/2007, both the cases were posted and the

petitioner appeared before the court . S.C.No.834/04 was called. He appeared. The same was adjourned. He was waiting outside the court for S.C.No.831/04 to be called. That case was not called. But the petitioner now finds that the said case has been re-numbered as S.C.No.91/07 and a warrant of arrest has been issued against the petitioner on the allegation that he has not appeared before the court on that day in S.C.No.91/07. The petitioner finds a warrant of arrest issued by the learned Assistant Sessions Judge chasing him. According to the petitioner, his failure/omission to appear in S.C.No.91/07 is not wilful or deliberate. He did not know about the change of the number.

3. I have no method to verify immediately the correctness of these submissions. I am certainly of the opinion that it is for the petitioner to appear before the learned Assistant Sessions Judge, Mavelikkara and to claim regular bail. I have no reason to assume that if the fact situation represented by the counsel is correct, the learned Assistant Sessions Judge would not consider the petitioner's application for bail on merits, in accordance with law and expeditiously. Sufficient general directions have already been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339]. I do not find it

necessary to issue any further or more specific directions.

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Assistant Sessions Judge and applies for bail in the case in which warrant has been issued against him, the learned Assistant Sessions Judge must proceed to consider such application for bail on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. The learned counsel for the petitioner apprehends that the learned Assistant Sessions Judge may not accept the former sureties. If it were only an omission on the part of the petitioner to enter the box when the case was called, though he was present in court and had appeared before court in another case on the same day, I find no reason why the learned Assistant Sessions Judge should insist on any fresh sureties. Suffice it to say that the learned Assistant Sessions Judge must consider all the circumstances and pass appropriate orders.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007